

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

NORTH CAROLINA DEMOCRATIC
PARTY; CUMBERLAND COUNTY
DEMOCRATIC PARTY; DURHAM
COUNTY DEMOCRATIC PARTY;
FORSYTH COUNTY DEMOCRATIC
PARTY; GUILFORD COUNTY
DEMOCRATIC PARTY;
MECKLENBURG COUNTY
DEMOCRATIC PARTY; ORANGE
COUNTY DEMOCRATIC PARTY; and
WAKE COUNTY DEMOCRATIC
PARTY,

Plaintiffs,

v.

PHILLIP E. BERGER, in his official
capacity as PRESIDENT PRO TEMPORE
OF THE NORTH CAROLINA SENATE;
TIMOTHY K. MOORE, in his official
capacity as SPEAKER OF THE NORTH
CAROLINA HOUSE OF
REPRESENTATIVES; THE STATE OF
NORTH CAROLINA; THE NORTH
CAROLINA BIPARTISAN STATE
BOARD OF ELECTIONS AND ETHICS
ENFORCEMENT; and KIMBERLY
STRACH, in her official capacity as
EXECUTIVE DIRECTOR OF THE
NORTH CAROLINA BIPARTISAN
STATE BOARD OF ELECTIONS AND
ETHICS ENFORCEMENT,

Defendants.

CIVIL ACTION NO. 1:17-cv-1113

MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, Plaintiffs in the above-captioned action respectfully move the Court for an order preliminarily enjoining the enforcement of Section 4(a) of Session Law 2017-214 (“S.L. 214”) as enacted by the North Carolina General Assembly over the veto of North Carolina Governor Roy Cooper. This anti-democratic legislation eliminates primary elections in 2018 for the justices and judges of the appellate courts, judges of the superior courts, and judges of the district courts. It thereby violates Plaintiffs’ fundamental rights of association in violation of the First and Fourteenth Amendments to the United States Constitution.

In support of this motion, the following are submitted: **Exhibit A**, Declaration of G. Wayne Goodwin; **Exhibit B**, Declaration of Caroline Lim; **Exhibit C**, Declaration of Rebecca Llewellyn; **Exhibit D**, Declaration of Marcia Morey; **Exhibit E**, Declaration of Robert F. Orr; **Exhibit F**, Declaration of Jesse Presnell; and **Exhibit G**, Declaration of Donald W. Stephens.

As set out in the supporting memorandum and declarations filed with this motion, Plaintiffs are likely to succeed on the merits in this action. Plaintiffs will suffer immediate and irreparable injuries if the *status quo ante litem* is not maintained and primaries are not restored during the pendency of this action. The balance of hardships weighs plainly and decidedly in favor of the issuance of a preliminary injunction.

WHEREFORE, Plaintiffs respectfully request that this Court enter a preliminary injunction against Defendants and order such other and further relief as the Court deems appropriate.

This the 12th day of December, 2017.

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By: /s/ John R. Wallace

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*Counsel for Plaintiff N.C.
Democratic Party*

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel and parties of record.

I further certify that I have this day served a copy of the foregoing via email and by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail, addressed to the following persons at the following address which is the last address known to me:

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This the 12th day of December, 2017.

/s/ Edwin M. Speas, Jr.
Edwin M. Speas, Jr.